REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed May 10, 2006. In order to advance prosecution of this case, Applicant amends Claims 1, 9, and 10. Applicant previously canceled Claim 8 without prejudice or disclaimer. Applicant respectfully requests reconsideration and favorable action in this case.

Section 101 Rejections

The Examiner rejects Claims 1-7 under 35 U.S.C. § 101 stating that the claimed invention is allegedly directed to non-statutory subject matter. Applicant respectfully traverses this rejection. Nonetheless, for the purposes of advancing prosecution, Applicant amends Claim 1 to address the Examiner's concern.

Section 112 Rejections

The Examiner rejects Claims 1-7, 9, and 10 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. The Examiner asserts that:

> [T]he specification, while being enabling for a method for reporting a value, does not reasonably provide <u>enablement</u> for (d) determining the value of the key performance indicator (KPI), based on the business data above. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to practice the invention commensurate in scope with these claims. Pages 17-18 and Fig. 3 have been reviewed but there is no citation of how to carry out step (d) or any example of how the value can be determined.

Office Action, p. 4-5.

While Applicant does not intend, and is not required, to limit the scope of Claim 1 to any particular implementation disclosed in the Application, Applicant respectfully notes that one example of "determining the value of [a] key performance indicator" is shown on pp. 8-9 of the Application. In particular, the Application discloses:

> For example, a KPI application that visualized a data point defined as the "Total Gross Profit Before Taxes" might have more than one event policy associating it to sales orders, manufacturing orders and purchase orders. This means that any negative or positive event with respect to any of these order types can be directly correlated as affecting the "Total Profit" and therefore enforce a certain visualization policy as well as providing specific value information, such as how much the profit will be affected, for example.

Page 8, line 22 - page 9, line 5.

Applicant respectfully notes that this is one non-limiting example of the support for the relevant claim element and that other examples exist elsewhere in the Application (including the subject matter incorporated by reference).

Consequently, Applicant respectfully submits that the Application as originally filed does support the claim element of "determining the value of [a] key performance indicator." As a result, rejection under 35 U.S.C. § 112, second paragraph, on these grounds is improper. Applicant respectfully requests reconsideration and allowance of Claims 1-7, 9, and 10.

With respect to the Examiner's rejection under 35 U.S.C. § 112, the Examiner further inquires:

> [W]hat is relationship of these variables: (1) business event, (2) business event message and (3) and occurrence of the business event to step of "determining the value of the KPI" or in other word, are these variables being used in determining the value of the KPI?"

Applicant respectfully traverses rejection under 35 U.S.C. § 112, second paragraph, under these grounds as well. Applicant respectfully notes that 35 U.S.C. § 112 requires only that the claims "particularly point out and distinctly claim[] the subject matter which the applicant regards as his invention." Furthermore, Applicant also respectfully notes that:

> Breadth of a claim is not to be equated with indefiniteness. If the scope of the subject matter embraced by the claims is clear, and if applicants have not otherwise indicated that they intend the invention to be of a scope different from the defined in the claims, then the claims comply with 35 U.S.C. 112, second paragraph.

MPEP § 2173.04 (citation omitted).

Nothing in the specification or the surrounding language of Claim 1 necessitates limiting Claim 1 to covering only methods in which the identified elements maintain specific relationships with one another. Nonetheless, for the purposes of advancing prosecution, Applicant amends Claims 1, 9, and 10 to address the Examiner's concern. Claims 1-7, 9, and 10 are thus allowable. Applicant respectfully requests reconsideration and allowance of Claims 1-7, 9, and 10.

Section 103 Rejections

The Examiner rejects Claims 1-7, and 9-10 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,546,378 issued to Cook ("*Cook*"). As amended, Claim 1 recites:

> A method for reporting a value of a key performance indicator comprising:
> receiving information identifying a key performance indicator to monitor;
> identifying at least one business event associated with the selected key performance indicator;
>
> receiving a business event message indicating an occurrence of the business event, the business event message including business data describing the business event;
> in response to receiving the business event message, electronically determining the value of the key performance indicator based on the business data; and
> displaying the determined value of the key performance indicator via a contextual visualization interface.

Cook fails to disclose, teach, or suggest every element of amended Claim 1 for at least several reasons. First, *Cook* fails to disclose "receiving information identifying a key performance indicator to monitor." Second, *Cook* fails to disclose "receiving a business event message indicating an occurrence of the business event, the business event message including business data describing the business event." Third, *Cook* fails to disclose "in response to receiving the business event message, determining the value of the key performance indicator based on the business data." Thus, for at least these reasons, *Cook* fails to disclose, teach, or suggest every element of amended Claim 1, as discussed in further detail below.

First, *Cook* fails to disclose "receiving information identifying a key performance indicator to monitor." In rejecting Claim 1, the Examiner attempts to equate a stock price prediction disclosed by *Cook* with the claimed "key performance indicator." *Cook* fails to disclose any information "identifying a [stock price prediction] to monitor." As a result, *Cook* fails to disclose "identifying a key performance indicator to monitor" as recited by amended Claim 1.

Second, *Cook* fails to disclose "receiving a business event message indicating an occurrence of the business event, the business event message including business data

describing the business event." In addressing this element, the Examiner equates the "business event message" with some unspecified "data" disclosed by *Cook*. To the extent the Examiner is equating the claimed "business event message" with "market historical data" discussed by *Cook* (e.g., col. 39, line 31), Applicant respectfully notes that *Cook* fails to disclose "receiving [market historical data]" and to disclose that the data "indicat[es] the occurrence of [a] business event and describ[es] the business event." Thus, *Cook* fails to disclose "receiving a business message indicating the occurrence of the business event and describing the business event."

The Examiner concedes this fact by noting that "COOK fairly teaches the claimed invention <u>except for</u> some relationship between the occurrence of event and the message (data)." *Office Action*, p. 6. The Examiner attempts to address this deficiency by noting that:

> However, on example 12, step 7 on col. 40 (or similar teachings on col. 46, step 8), COOK fairly teaches the determination of the relationship between different types of events (occurrence) or the determination of different maps to predicted different features of IBM stock for different periods into the future using collections of market measures and by analyzing wave packets of different lengths, therefore it would have been obvious to a skilled <u>artisan</u> in the data analysis and management to link business event message indicating the occurrence of the business event to the determination of the value of the prediction if desired, as fairly taught in COOK above.

Office Action, pp. 6-7.

Notwithstanding the Examiner's description of the cited portion, the cited portion does not discuss any types of "event." Moreover, the Examiner fails to identify any "business event" the occurrence of which is indicated by the "data" as required by Claim 1. Thus, even if modified as the Examiner proposes, *Cook* fails to disclose "receiving a business message indicating the occurrence of the business event and describing the business event."

Third, *Cook* fails to disclose "in response to receiving the business event message, determining the value of the key performance indicator based on the business data." In rejecting Claim 1, the Examiner equates "data." As noted above, the Examiner equates the "business event message" with some unspecified "data" disclosed by *Cook*. To the extent the Examiner is equating the claimed "business event message" with "market historical data" discussed by *Cook* (e.g., col. 39, line 31), Applicant respectfully notes that *Cook* fails to disclose any "determining" performed "*in response to receiving the [market historical data]*" (emphasis added). Consequently, *Cook* fails to disclose "in response to receiving the

business event message, determining the value of the key performance indicator based on the business data" as recited by Claim 1.

As a result, *Cook* fails to disclose, teach, or suggest every element of amended Claim 1. Claim 1 is thus allowable for at least these reasons. Applicant respectfully requests reconsideration and allowance of Claim 1 and its dependents.

Although of differing scope from Claim 1, Claims 9 and 10 include elements that, for reasons substantially similar to those discussed with respect to Claim 1, are not disclosed, taught, or suggested by *Cook*. Claims 9 and 10 are thus allowable for at least these reasons. Applicant respectfully requests reconsideration and allowance of Claims 9 and 10.

Furthermore, several of the dependents of Claim 1 include additional elements that are not disclosed by the cited portions of *Cook*. For example, Claim 2 recites:

> A method according to claim 1, wherein the business event message represents a reference event.

Cook fails to disclose, teach, or suggest additional elements of Claim 2. For example, *Cook* fails to disclose "[a] business event message" that "represents a reference event." The Examiner addresses this element by stating merely that:

> [C]laims 2-6 (part of <u>1</u> above), which deals with well known data event parameters, i.e. different type of event features such as reference, change, threshold event, task completion or failure, etc., these are non-essential to the scope of the claimed invention which is "data analysis and management" and are fairly taught in example 12, col. 46, "...*relationship between different types of events*".

Office Action, p. 7.

With respect to the Examiner's assertion that Claim 2 "deals with well known data event parameters," Applicant respectfully disputes this assertion. Moreover, Applicant respectfully notes that, to establish a *prima facie* case of obviousness, "the prior art reference (or references when combined) must teach or suggest all the claim limitations." M.P.E.P. § 2142. Applicant respectfully reminds the Examiner that "[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art." M.P.E.P. § 2143.03. Applicant respectfully notes that merely dismissing a claim limitation "as non-essential" is not sufficient to establish a *prima facie* case of obviousness.

Additionally, with respect to the Examiner's assertion that "[a] business event message" that "represents a reference event" is "fairly taught in example 12, col. 46,

'...relationship between different types of events,'" Applicant respectfully notes that to whatever extent *Cook* may disclose the existence of "a relationship between different types of events," *Cook* still does not disclose "[a] business event message" that "represents a reference event." Merely disclosing the existence of "a relationship between different types of events" is not sufficient to disclose that a particular event "represents a reference event" as recited by Claim 2.

Consequently, *Cook* fails to disclose, teach, or suggest at least this additional element of Claim 2 and the Examiner fails to establish a *prima facie* case of obviousness. Claim 2 is thus allowable for at least this additional reason. Additionally, Claims 3-6 include elements that, for reasons substantially similar to those discussed with respect to Claim 2, are not disclosed by *Cook*. Claims 3-6 are thus allowable for at least these additional reasons. Applicant respectfully requests reconsideration and allowance of Claims 2-6.

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Conclusions

Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests full allowance of all pending Claims. If the Examiner feels that a telephone conference or an interview would advance prosecution of this Application in any manner, the undersigned attorney for Applicant stands ready to conduct such a conference at the convenience of the Examiner.

The Commissioner is hereby authorized to charge the RCE fee of $790.00 and the two month extension of time fee of $450.00 and any additional fees or to credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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